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In re Application of :
HOFSAESS, Michael :
App. No.: 10/069,452 :
PCT No.: PCT/DE01/00591 :
Int. Filing Date: 16 February 2001 :
Priority Date: 26 February 2000 :
Attorney Docket No.: 1780 :
For: MEASURING INSTRUMENT AND
METHOD FOR DETECTING A FORCE

DECISION ON PETITION
UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition to Withdraw Holding of Abandonment" which is being treated as a petition under 37 CFR 1.181 filed in the United States Patent and Trademark Office (PTO) filed 29 March 2004. Additionally, this decision is in response to applicant's "Petition to Revive" filed 14 December 2006.

BACKGROUND

On 16 February 2001, applicant filed international application PCT/DE01/00591, which claimed priority of an earlier application filed 26 February 2000. On 30 August 2001, the International Bureau ("IB") communicated a copy of the international application to the United States Patent And Trademark Office ("USPTO").

On 25 October 2001, applicant filed a transmittal letter for a patent application under 35 U.S.C. 371 in the United States, which was accompanied by, inter alia: the basic national fee; an English language translation of the international application; and a preliminary amendment

On 20 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

On 09 March 2004, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment under 35 U.S.C. 371 (Form PCT/DO/EO/909) indicating that the

application was abandoned for failure to respond the Notification of Missing Requirements mailed 20 May 2002.

On 29 March 2004, applicant filed "Petition to Withdraw Holding of Abandonment" which was accompanied by: a copy of a postcard receipt dated 11 June 2002 for application no. 10/069,452; a copy of a transmittal letter; and a copy of an executed declaration and power of attorney.

On 14 December 2006, applicant filed a "Petition to Revive."

DISCUSSION

Applicant states in their present petition that a declaration was received at the United States Patent and Trademark Office on 11 June 2002. A review of the present application reveals that the declaration filed 11 June 2002 is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Here, applicants have provided a copy of their date-stamped postcard receipt. The receipt identifies the application by applicant and docket number. The receipt identifies the serial/application number as 10/069,452. The receipt itemizes, among other things, an executed declaration. The receipt is stamped "Rec'd. PCT/PTO 11 JUN 2002" across its face is sufficient to indicate that the declaration was in fact received in the Office on 11 June 2002.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

In view of the receipt of the declaration filed 11 June 2002, which was a timely response to the Notification of Missing Requirements mailed 20 May 2002, the holding of abandonment is hereby **WITHDRAWN**.

Applicant's petition to revive under 37 CFR 1.137(b) is **DISMISSED** as moot. The petition fee will be refunded to Deposit Account no. 19-4675.

A review of the application papers reveals that applicant completed all the requirements of 35 U.S.C. 371 for entry into the national stage.

This application will be given an international application filing date of 16 February 2001 and a date of **11 June 2002** under 35 U.S.C. 371.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.

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